

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte JOACHIM HERZ and PETRA MAY

Application No. 09/977,155

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 30, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On December 21, 2005, the examiner mailed an examiner's answer. In the Evidence Relied Upon section, paragraph (8), the examiner stated that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that a reference was applied to the statement of rejections in the Grounds of Rejection section, paragraph (9), of the examiner's answer. Before further review, the examiner must

MAILED

APR 12 2006

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Application No. 09/977,155

submit a revised examiner's answer that will include in the Evidence Relied Upon section, the reference mentioned in the statement of rejections. Appropriate correction is required.

Accordingly, it is

**ORDERED** that this application be returned to the examiner for: 1) the issuance of a revised Examiner's Answer, having the missing reference listed under the Evidence Relied Upon section, paragraph (8); and 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

Dale M. Shaw  
Program and Resource Administrator  
(571) 272-9797

RICHARD ARON OSMAN  
SCIENCE AND TECHNOLOGY LAW GROUP  
242 AVE VISTA DEL OCEANO  
SAN CLEMENITE, CA 92672

DMS/lbg